United States Court of Appeals

for the Second Circuit

BRIEF FOR APPELLANT

ORIGINAL

76-1011

B
P/S

United States Court of Appeals
For the Second Circuit

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

-against-

ANTHONY SOLDANO,
Defendant-Appellant.

On Appeal From The United States District Court For The Southern District of New York

Appellant's Brief

ROBERT BLOSSNER
Attorney for Defendant-Appellant
250 Broadway
New York, New York 10007

DICK BAILEY PRINTERS, 290 Richmond Ave., Staten Island, N.Y. 10302
Telephone: (212) 447-5358

TABLE OF CONTENTS

CASES CITED

OTHER AUTHORITY

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

- against -

ANTHONY SOLDANO,

Defendant-Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK:

PRELIMINARY STATEMENT:

The appellant, Anthony Soldano, appeals from a judgment of conviction rendered in the United States District Court, Southern District of New York (Judge Irving Ben Cooper) whereby the appellant was convicted after trial before a jury under count 1 of the indictment, charging a conspiracy to distribute and possess with intent to distribute narcotics, in violation of 21 U.S.C. 812, 841 (a)(1) and 841 (b)(1)(a) and count 9 of the indictment, the substantive count, charging the appellant, together with one Joseph Malizia, with the distribution and possession with intent to distribute, three kilograms of heroin, in violation of 21 U.S.C. 812, 841(a)(1) and 841 (b)(1)(a) and 18 U.S.C. 2.

As a consequence, the appellant Anthony Soldano, was sentenced to two concurrent 15 year jail terms to be followed by a special parole term of three (3) years.

STATEMENT OF ISSUES PRESENTED FOR REVIEW:

(A) Was the Court below in summarily denying a pre-trial application to suppress a pre-trial identification of the appellant by the government's sole witness one Verzino, who identified appellant at trial, said witness having been shown a series of photographs among which was a photograph of the appellant, such series having been displayed to the witness within six (6) months of trial; and was the Court below correct in summarily denying the motion by doing so without prejudice to the appellant renewing the same at trial and at the trial ruling that the appellant should test the pre-trial identification in the presence of the jury?

(B) Was the Court below correct in refusing to charge the jury as to the identification of the appellant, and how the jury should appraise the evidence of such identification, in the language comprising a Model charge as to identification?

(C) Since at most the government sought to prove the appellant engaged in one transaction, was the appellant shown to have been a member of the conspiracy as charged in count 1 of the indictment?

STATEMENT OF THE CASF AGAINST THE APPELLANT, ANTHONY SOLDANO:

THE PRE-TRIAL MOTION FOR A HFARING TO DETERMINE THE PRE-TRIAL IDENTIFICATION OF THF APPELLANT ANTHONY SOLDANO:

Prior to trial the appellant through counsel moved by a written application for a hearing to determine the in-court identification of the appellant, and the sources of such in-court identification (1, 5)*. It was argued that counsel sought an order directing disclosure of whether the appellant was placed in a line-up, show-up or identified by display of photographs to a witness, counsel citing U.S. v. Wade, 388 U.S. 218; Gilbert v. California, 388 U.S. 263; Stovall v. Denno, 388 U.S. 293. Counsel further reasoned that there should be further disclosure as to identification in regard to the use of "mug shots" or photographs as part of a pre-trial identification procedure, counsel citing Simmons v. U.S., 390 U.S. 377; U.S. Ex Rel. Rivera v. McKendrick, 488 F. 2d 30...; U.S. v. Famulari, 447 F. 2d 1377 and People v. Ballott, 20 N.Y. 2d 600, 31.

Prior to tnat application, the appellant moved for an order dismissing the indictment. Tnc grounds were that the appellant was arrested May 8, 1974 and held in custody for twelve (12) days without any hearing and without being properly indicted (35).

---

*( )This refers to the pagination of the appendix furnished by the appellant.

At the arraignment appellant was asked to plead to the indictment which charged one Anthony Visconti, with the offenses. The appellant argued that he was never known by that name. The United States Attorney opposed the application, arguing that the grand jury committed an error but intended to indict the appellant (36). In answering the appellant's motion for a pre-trial hearing, the government merely alleged that:

> "Defendant Soldano's identity was established by means of photographic identification." (39).

The motion seeking relief as to the identification issue was denied (3, 43, 44, Appendix A, infra), Appendix A, infra, was the Court's decision of the pre-trial motions and it was filed September 3, 1975. In regard to request number 2 (this request is found on page 23 of appellant's appendix and asked that a hearing be held to determine the admissibility of the evidence as to the identity of the appellant.

On the eve of trial, counsel again asked for a hearing as to the identification issue, the government responded by stating that there was no suggestive photographs shown to any witness in the case and that that would be established when the witness testified about his relationship with the appellant (44).

The Court then told counsel that it was desirable that the trial proceed, and counsel should bring up the issue when the jury would not be inconvenienced (44, 45).

Shortly after one Perna, a government witness, commenced testifying and counsel again raised the matter as to the identification of the appellant. The Court told the appellant to wait until further proceedings were had (46, 47).

THE FACTS:

Mario Perna, testified he was working with one Anthony Verzino, in the trafficking of narcotics (48, 49). In January 1974 Verzino told Perna that he made a "new connection" for procuring narcotics and "Tony" was said to be the source. According to Perna Verzino told him that if two kilos were paid for, a third would be transferred on consignment (49, 50). Verzino further explained that he spoke to "Ernie" (defendant Ernest Malizia) brother of "Pontiac" and that he, Verzino and one Frank Caravalla, were introduced to "Tony" in Long Island by "Pontiac" (50). Verzino also told Perna that "Tony" didn't want to meet anyone else irrespective of that persons relationship and that "Tony" only wanted to talk to Verzino. Verzino added that he had an appointment with Tony on the following day (50).

According to Perna, Verzino stated he was desirious of dealing with "Tony" from Long Island because Verzino would then be "closer to the original source..." (51). Perna had met "Patty Pontiac" previously with his brother Ernie Malizia, Verzino and Frank Caravalla, also known as "Skinny Frankie" (52, 53).

The following day Verzino having procured some money, arranged with Perna and Caravalla to go to Long Island in two cars (54, 55). On the way there, they joined at a motel to count the money so they could be ready for "Tony" (55). While at the motel Perna told Verzino to continue as "Tony" didn't want to meet anybody. Verzino told told Perna he would meet Perna later that day at the Astor Bar in the Bronx (55). Perna then returned to the Bronx but met nobody that day (56). However at 9:30 P.M. Verzino and Caravalla met him at the Astor Bar (56).

Verzino told Perna that he had a problem in that after meeting "Tony", "Tony" was to deliver the goods in lower Manhattan but did not appear (56). That "Tony" instead called Verzino to meet him in Queens, which was the place for the delivery (57). According to Perna, Verzino told him that "Tony" phoned him telling him that they had to meet in Queens and according to Verzino they ultimately did. At Queens at a restaurant they picked up the narcotics. Verzino then returned to lower Manhattan to meet "Skinny Frankie" and they all proceeded to the Astor Bar in the Bronx (57).

Having the narcotics, Perna and Verzino then tested three kilos (58, 59).

The next witness was Verzino (61). On direct examination he described his past dealings in narcotics, and he related how he met Ernie Malizia and Perna after he was released from Atlanta Penitentiary. At this meeting Perna asked him whether he entertained any animosity towards him and Verzino replied that he was as yet undecided (67). Malizia offered him $3,000 and asked him whether he was interested in joining him in a narcotics enterprise (67). At these negotiations, Verzino asked Malozia about the persons they dealt with telling him he was as yet undecided, but ultimately joining Malozia (68, 70).

At this phase of the case Soldano's counsel again renewed his application relating to the pre-trial identification and the ultimate suppression of a court room identification. The prosecutor replied that there was no impermissible photographs shown of the appellant to this witness (72, 73). The prosecutor replied that counsel could cross examine Verzino; the Court ruled that the appellant was not entitled to a hearing but if there was something advanced that would cause the Court to change its ruling, the Court would change it. Then the Court stated that counsel would be given an "opportunity" and that "...you will not go into his client's testimony until we have a chance to pick up this point that he has raised." (73).

Perna's direct examination was then continued. At this phase of the case he related that late in January 1974 Caravallo told him that they had to go to Long Island to see "Pontiac" at a bar in Port Washington called Jimmy's Backyard (82, 83). The next day Caravallo and Verzino met "Patsy Malizia" at the bar (84). Malizia told Caravallo to leave and Caravallo complied. Later "Tony" appeared and was introduced to Verzino by Patsy Malozia (84). Verzino described "Tony" as being of medium height, stocky, a medium stocky built, large head, well dressed, solid walk, fair complexion, dark hair of what the witness "... could see of his hair. At the time he had a hat on. And well kept hands." (84).

"Tony" told Patsy that the price would be $50,000 and Verzino replied that he didn't know how much money he had (85, 86). Credit was discussed but Verzino was told that he would have to pay $75,000 and an appointment was made for the next day (86, 87). The witness then made an in-court identification of the appellant Soldano (88). After the conversation "Tony" left. That evening Verzino met Perna and others at a restaurant in the Bronx (88). They discussed raising money that night and Verzino suggested making the purchase (90, 91). The next day Verzino managed to get $25,000 from a Mr. Robin, and met Perna and Caravalla (91). They then proceeded to Port Washington in two cars (92).

As Perna testified, so did Verzino to the effect that they rented a motel room and counted the money there (Government's Exhibit 84, 93, 94). They all then proceed to Port Washington and met at the bar called Jimmy's Backyard (95).**

Arriving at their destination, "Pontiac" met them and "Tony" drove up in a Buick. The witness said that he had $75,000 and"Tony" asked whether that was "all" (96).

The witness then identified the appellant as being "Tony" (96, 97).

Continuing his testimony, Verzino described the arrangements for the sale of the narcotics (97). The narcotics were to be transferred to the witness' car and the witness was to meet "Tony" at Mulberry Street, New York City (98). "Tony" also was said to have asked whether Caravalla was "Teresa's" brother (99, 100). It so happened that on returning to New York with Caravalla Verzino mentioned this incident to him and Caravalla stated that he recognized "Tony" who used to go to a "game" (100).

Verzino related that he never met "Tony" before the one instance described (100). Arriving in lower Manhattan, he met "Tony" (101). "Tony" told him he would drive Verzino's car and they agreed to meet later (101, 102). He later met "Tony" for a second time at the same locale and "Tony" told him that he would have to meet him in Long Island (103). Ultimately the

---

**This contrasted with Perna's testimony that he left the motel and returned to the Bronx (55, 56).

witness and the person he said was the appellant met in Queens (104, 105). The witness' car was returned to him and in the trunk was a box (106). Verzino then ultimately met Perna and they tested the contents of the box that was left in Verzino s car. It contained three (3) kilos of narcotics (107, 108). Verzino would have $75,000 paid to the person he said was the appellant, the payments being made through Caravalla and Malozia.

Before cross examination, counsel for the appellant made an application (113). That application recited that the appellant was originally indicted as Anthony Visconti and that the appellant requested exculpatory material from the government as to all reports and identifications leading up to the misidentification as well as the grand jury testimony identifying Visconti and the appellant and indictments number 75 CR 24 and 75 CR 687 (115). The request by counsel was for the material prior to cross examination so that counsel would not have to cross examine blindly (115).

The government opposed the application stating it didn't consider the request to come under its obligation to supply exculpatory material adding that if the Court wanted an additional response the government would give it (114). The Court denied the application (115).

Cross examination then began (115). Verzino stated that in discussing his involvement with a state prosecutor, he never mentioned the appellant (123, 124). Defendant's Exhibit A, a writing, disclosed that Verzino told a New York City police officer that he did not want to go at it "tough" with his old friends (123).

In regard to the identification of the appellant, Verzino stated that in August 1974 he gave a description of Soldano which ran as follows: medium height or a little better, stocky, large boned, well-kept hands, balding, well-dressed, between 45 and 55 years old (130, 131).

He readily admitted that he never described the person he said was the appellant only calling him "Tony" (131). He saw the person he named as the appellant in January 1974. Within six (6) months prior to trial he saw a large group of photographs and was asked to select anyone he knew (131, 132). From that series of photographs he selected a picture of the appellant (132, 135). He gave no written material as to the pre-trial identification (134). In August 1974 he gave a description of the appellant (137, 138). However in the fall of 1974 he was led to believe that the appellant's last name was not "Soldano", the witness being told by an agent that it was Visconti (138, 139). He only related to the grand jury that the man he dealt with was "Tony" (139). When the witness met the appellant in the street,

the appellant was wearing a hat, and this was in the evening (141, 142). He could not recall how he described the appellant (142). The only time the witness had an opportunity to meet "Tony" was either in the evening or inside a car or in daylight when "Tony" was wearing a hat (143). He couldn't recall how many other suspects he may have selected from the series of pictures shown to him (144, 145). Then he added it could have been 5 or 10 suspects (145).

Appellant's Exhibit C consisted of the pictures (145, 146). But these pictures were taken March 14, 1975 and therefore the witness had no opportunity to identify the appellant for a period of 14 to 15 months (147).

On re-direct examination Verzino testified that the agents asked the witness if "Tony" had a last name that was "Christopher" and the witness told him he didn't know (153). It now developed that "Christopher" was another informer (155).

On re-cross examination Verzino stated that "Christopher" suggested the name Visconti (158). He also admitted that the appellant never held himself out by the name Visconti (159).

As part of the evidence in this case, there was a stipulation entered into between appellant's counsel and the government and that stipulation is found on pages 162 and 163 of the appendix. That stipulation was to the effect that the appellant was present at 131 Mott Street on March 13, 1975. That federal and city authorities entered the premises on the belief that a dice game

was in progress. That the appellant with other persons was given a summons directing his appearance in the New York City Criminal Court for loitering for the purpose of gambling. The charge was dismissed. That the photographs comprising Appellant's Exhibit C included the appellant's photograph taken at the time of the issuance of the summons and that Exhibit C was shown to Verzino after March 14, 1975. And furthermore, before July 10, 1975 the name Visconti appeared in the place of the name "Anthony Soldano" as alleged in the indictment (163).

POINT I:

THE COURT BELOW SHOULD HAVE GRANTED THE APPELLANT A PRE-TRIAL EVIDENTIARY HEARING TO TEST THE IDENTIFICATION OF THE APPELLANT.

A motion to suppress evidence because of a wrongful search and seizure (4th Amendment to the Federal Constitution), Rule 41 (f), Federal Rules of Criminal Procedure, seeks to insulate a case from evidence having probity, see Schneckloth v. Bustamonte, 412 U.S. 218 at pages 239, 242, 243.

Alternatively, identification evidence is fraught with misleading factors. It would seem that the Court below should have granted a pre-trial hearing under Rule 12 of the then existing Rules of Federal Criminal Procedure. Subdivision (4) of that Rule provided that a motion before trial raising an issue or objections was to be determined before trial unless the Court otherwise ordered it deferred for the termination of trial of the general issue. The Rule further provided issues of fact could be tried before a jury if such was required under the Constitution or an Act. It concludes by stating all other issues of fact should be determined by the Court with or without a jury or on affidavits or in such manner as the Court may direct.

It is respectfully submitted the Court did not comply with this Rule.

Firstly, the Court in stating to counsel that the application could be renewed at trial clearly violated a recent ruling of this Court found in U.S. v. Mauro, 507 F. 2d 802. There a motion to suppress evidence under Rule 41 was initially brought during the trial and was denied. The basis for the denial was the delay in making the motion as well as the lack of merits of the motion. However this Court in resolving the issue against the appellant pointed out that the then existing Federal Rules of Criminal Procedure 41 (f) relating to motions to suppress did not provide as such that such a motion had to be made before trial. However the Court also cited the then Rule 12 (b) of the Rules of Criminal Procedure, which was held to govern.

Three months after this trial terminated, present Rule 12 of the Rules of Criminal Procedure took effect. It is provided in subdivision (3) that motions to suppress evidence should be made before a trial. In subdivision (e) thereof, it is provided that a motion made before trial as required by that rule should be determined before trial unless there is good cause for deferring a ruling. It then concludes that where factual issues are involved in determining such a motion, the Court should "state its essential findings on the record".

In Moore's Federal Practice, at pages 12-21 it is stated that:

> "...Dealing with motions to suppress, makes it clear that any objections to evidence predicated on the ground that it was illegally acquired must be made before trial...The determination of a motion to suppress prior to trial - regardless of the basis of the claimed illegality - is a salutary procedure in that it tends to eliminate from the trial any disputes pertaining to police activity not immediately pertinent to the defendant's guilt."

It is respectfully submitted that if the ruling in Mauro, supra, considered the new Rules of Criminal Procedure not in effect at the time of the decision, the Court below should have recognized Rule 12 to be given effect.

Thus the government's response to the appellant's application was a mere general statement that there was no suggestive display of photographs (39, 72, 73). Furthermore, the Court's ruling in denying the motion did not contain any findings. It merely was a bland denial of the motion (Appendix A, infra).

It is put that photographic displays are subject to the test that the display was unnecessary and suggestive. See Brathwaite v. Manson, (Cir. 2d, 11/20/75) Slip Opinion at pages 595, 604. There this Court on page 604 referred to Neil v. Biggers, 409 U.S. 188 which held that the issue of the suggestiveness of an identification procedure "...was anything other than a matter to be argued to the jury." It is suggested that the time to ascertain the due process (5th Amendment to the Federal Constitution) basis or lack of due process of the display to the government's witness was before the trial. Certainly it wasn't for the jury to determine and it would seem to be untimely to have this Court determine the issue. By affording the appellant a

pre-trial hearing, counsel would have been free to examine all persons involved in the identification process. Due process was denied the appellant by the procedure adopted by the Court because it put counsel to the dilemma of not examining Verzino as to the photographic confrontation, before the jury or else "bolstering" Verzino's in-court identification. Furthermore where the 4th Amendment did come into play was that a pre-trial hearing would have afforded this Court to assess the validity of the New York arrest (probable cause), which was the basis for the taking of a photograph. See U.S. Ex Rel. Pela v. Reid, (Cir. 2d, 12/11/75) Slip Opinion 1025, 1028, 1029. This Court was therefore deprived of a record upon which to assess the pre-trial identification and its effect on the in-court identification.

Actually there was nothing before the Court by way of opposition to the appellant's application. The appellant was not present when the photographic display was made to Verzino. He knew nothing about it or the circumstances surrounding it. All he knew was that it was made. The government's opposition to the motion contained a bland statement that the appellant was identified by photographs and nothing more. It is bewildering how the Court could have determined the motion when the government showed nothing by way of the propriety of the display except the government's contention. An evidentiary hearing could have developed whether Verzino failed to identify the appellant at all; whether he was prompted; whether he was shown other photographs

of the appellant; what he may have been told before making the selection.

It is also to be noted that the photographic display was had many months after the transaction unlike the circumstances in U.S. v. Estrenera, Cir. 2d, February 2, 1976, Slip Opinion 1693 at page 1707.

POINT II:

THE COURT'S CHARGE AS TO THE JURY'S APPRAISAL OF THE IDENTIFICATION EVIDENCE WAS INADEQUATE AND THE REQUESTED INSTRUCTIONS SHOULD HAVE BEEN GIVEN.

At the conclusion of the Court's charge, the appellant took an exception and asked that the "Model Instruction be given" (170, 40-42). The government apparently was troubled because the Court's charge initially did not refer to the issue of identification. The government stated that "something should be said to the jury with respect to identification of Soldano." (172). The Court indicated that identification required no greater proof than other factual issues (172, 173, 174). The Court then asked the government what portion of the appellant's request the government required and the government selected an innocuous portion of the appellant's request (173). The last paragraph of the request was of course not asked for by the government (42). The charge given to the jury was what the government consented to (175).

It is submitted that one of the most important features of the requested instruction was the direction that the government's burden "specifically includes the burden of proving beyond a reasonable doubt the identity of the defendant as the perpetrator of the crime of which he stands charged...". See U.S. v. Holley, 502 F. 2d 273, (Cir. 4th, 1974).

POINT III:

THE EVIDENCE WAS INSUFFICIENT TO SERVE AS THE BASIS OF THE VERDICT THAT THE APPELLANT WAS GUILTY OF A CONSPIRACY BECAUSE AT MOST THE GOVERNMENT ESTABLISHED A SINGLE TRANSACTION.

It is undisputed that the government's only witness who testified as to the appellant had but one transaction with the appellant. Whether a buyer and a seller of contraband can be parties to a conspiracy, see U.S. v. Katz, 271 U.S. 354, 1926, where the defendants were convicted of a conspiracy for the illegal sale of whiskey. On page 355 it was stated that:

> "...The overt act charged in each indictment was the sale of whiskey by one defendant to the other. This is an offense...; but as the defendants in each case were only one buyer and one seller and as the agreement of the parties was an essential element to the sale, an indictment of the buyer and seller for a conspiracy to make the sale would have been of doubtful validity ..."

In Direct Sales v. U.S., 319 U.S. 703, 712, footnote 8, it was stated in part that:

> "This may be true for instance of a single or casual transaction not amounting to a course of business regular, sustained and prolonged, and involving nothing more on the seller's part than indifference to the buyer's illegal purpose and passive acquiesence in his desire to purchase for whatever end. A considerable degree of carelessness coupled with casual transactions...are outside the boundary of conspiracy ..."

In U.S. v. Stromberg, 268 F. 2d 256 (Cir. 2d, 1959) at page 267, it was stated that:

> "...We also think that the conviction of the appellant Snyder must be reversed. At the trial, it was stipulated that Snyder had been introduced to either Aron or Baruche in 1949 before the conspiracy began. Apart from this, which standing alone was insufficient to support a conviction, the only incident connecting Snyder with the conspiracy is a delivery of two suitcases later found to contain heroin...In U.S. v. Reina,...242 F. 2d 302..., we held that participation in a single isolated transaction was an insufficient basis upon which to bottom an inference of continuing participation in the conspiracy. For ought that it appears from this record, this was Snyder's only transaction with the group; under the reasoning of the Reina case, the evidence is insufficient to support the inference that Snyder knew or accepted the conspiratorial aims or that his participation went beyond a single transaction."

See also U.S. v. Aviles, 274 F. 2d 179 (Cir. 2d, 1960), at page 190, holding that a single purchase was not enough to hold one to be a participant in a conspiracy.

POINT IV:

THE APPELLANT ADOPTS SUCH POINTS AND ARGUMENTS OF THE OTHER APPELLANTS WHICH MIGHT BE APPLICABLE TO THIS APPEAL TAKEN BY THE ABOVE NAMED APPELLANT: RULE 28(i) FEDERAL RULES OF APPELLATE PROCEDURE.

CONCLUSION:

THE JUDGMENTS OF CONVICTION SHOULD BE REVERSED.

Respectfully submitted,

ROBERT BLOSSNER
Attorney for Appellant
ANTHONY SOLDANO

ARNOLD E. WALLACH
Of Counsel on the Brief

ADDENDUM

U.S.A. v. ANTHONY SOLDANO, et al. - 75 Cr. 687

Charged in this multi-count indictment with conspiracy and a substantive violation of the federal narcotics laws, defendant Soldano moves for a bill of particulars, discovery, and a hearing on any out-of-court identification made of him. We dispose of his motion as follows:

As to a, c, e, f, l, these items are granted to the extent consented to by the Government in its bills of particulars and memorandum of law.

As to d, the Government acknowledges its responsibilities under Brady v. Maryland, 373 U.S. 83 (1963). Its present response in its affidavit suffices.

As to g, the Government's response in ¶¶5-7 of its affidavit is sufficient.

Requests b, h-k are denied as going beyond the scope of a bill of particulars. See, United States v. Copen, 378 F.Supp. 99, 103 (S.D.N.Y. 1974).

Request II. is denied. United States v. Culotta, 413 F.2d 1343, 1345 (2d Cir. 1969); Simmons v. United States, 390 U.S. 377, 384 (1968).

Request III. is denied insofar as it seeks to enlarge the time granted for making pre-trial motions beyond August 29, 1975.

SO ORDERED:

New York, N.Y.
September 2, 1975

U.S.D.J.

BLOOMER Peo. v. Soldano 76-1011

STATE OF NEW YORK)
: SS.
COUNTY OF NEW YORK)

ROBERT BAILEY, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. 10302. That on the 23 day of March 1976 deponent served the within Brief upon:

U.S. Atty. So. Dist. of N.Y.

attorney(s) for

Appellee

in this action, at

1 St. Andrews Pl.
NYC

the address(es) designated by said attorney(s) for that purpose by depositing 3 true copies of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States post office department within the State of New York.

Robert Bailey

Sworn to before me, this 23
day of March, 1976.

WILLIAM BAILEY
Notary Public, State of New York
No. 43-0132945
Qualified in Richmond County
Commission Expires March 30, 1976